

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FREDERICO GARCIA-SANTOS

§

VS.

§

CIVIL ACTION NO. 4:13CV345

Criminal Case No. 4:09CR12(2)

UNITED STATES OF AMERICA

§

ORDER ADOPTING REPORT AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains his findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that Petitioner's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 be denied and the case dismissed with prejudice. Petitioner has filed no written objections.

However, he appears to object to the issuance of any final judgment in this case without the court's acceptance of a Reply brief from him. Petitioner has filed three motions requesting additional time to file a Reply to the Government's Response brief. His first request for extension of time to file a Reply was filed on May 16, 2016. (Docket entry # 16). Pursuant to this request, the court granted Petitioner a twenty-day extension of time to file on June 16, 2016. (Docket entry #18). The court received no additional communication from Petitioner prior to issuance of the Report and Recommendation on July 18, 2016. However, later that same day, Petitioner filed another request for extension of time to file a Reply. (Docket entry # 20). Thereafter, on August 15, 2016, he filed a motion for relief from judgment, order or proceeding,

which, based on the substance of the motion, the court construes as a third request for extension of time to file a Reply. (Docket entry # 21).

The court finds that Petitioner's second and third requests for extension of time to file a Reply are untimely because they were filed after the time for filing set forth in the court's June 16, 2016, order and after filing of the Report and Recommendation in this case. And, because neither the second nor the third request for extension of time to file a Reply mentions the Report and Recommendation or the findings of fact and conclusions of law therein, the motions cannot be construed as objections to the Report and Recommendation.

The findings and conclusions of the Magistrate Judge are therefore adopted as those of the court.

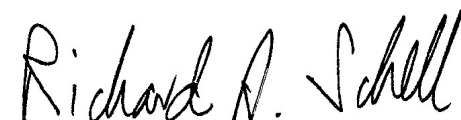
In light of the foregoing, it is

ORDERED that Petitioner's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 is **DENIED** and that the case is hereby **DISMISSED WITH PREJUDICE**. It is further

ORDERED that Petitioner's motion for extension of time to file Reply (docket entry # 20) and motion for relief from judgment, order or proceeding (docket entry # 21) are hereby **DENIED**. It is further

ORDERED that any motion not previously ruled on is **DENIED**.

SIGNED this the 17th day of August, 2016.

A handwritten signature in black ink that reads "Richard A. Schell". The signature is written in a cursive, flowing style.

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE